

Bill No. SB 2730 and SB 1596

Barcode 370156

Proposed Committee Substitute by the Committee on Regulated Industries

1 A bill to be entitled
2 An act relating to residential tenancies;
3 amending s. 83.43, F.S.; revising and providing
4 definitions; amending s. 83.595, F.S.; allowing
5 a landlord to terminate a rental agreement and
6 recover liquidated damages or charge the tenant
7 an early termination fee for breach of the
8 agreement, or both, under certain
9 circumstances; requiring the tenant to indicate
10 acceptance of an early termination fee or
11 liquidated-damages provision in the rental
12 agreement in order for the provision to take
13 effect; providing a limit on the combined total
14 of damages and fee; providing liability of the
15 tenant for rent, other charges otherwise due,
16 and rental concessions; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsection (7) of section 83.43, Florida
22 Statutes, is amended, and subsection (17) is added to that
23 section, to read:

24 83.43 Definitions.--As used in this part, the
25 following words and terms shall have the following meanings
26 unless some other meaning is plainly indicated:

27 (7) "Rental agreement" means any written agreement,
28 including amendments or addenda, or oral agreement ~~if~~ for a
29 ~~less~~ duration of less than 1 year, providing for use and
30 occupancy of premises.

31 (17) "Early termination fee" means any charge, fee, or

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1 forfeiture that is provided for in a written rental agreement
2 and is assessed to a tenant when a tenant vacates a dwelling
3 unit before the end of the rental agreement. An early
4 termination fee does not include:

5 (a) Unpaid rent through the end of the month in which
6 the tenant occupied the dwelling unit.

7 (b) Charges for damages to the dwelling unit.

8 Section 2. Section 83.595, Florida Statutes, is
9 amended to read:

10 83.595 Choice of remedies upon breach or early
11 termination by tenant.--

12 ~~(1)~~ If the tenant breaches the rental agreement ~~lease~~
13 for the dwelling unit and the landlord has obtained a writ of
14 possession, or the tenant has surrendered possession of the
15 dwelling unit to the landlord, or the tenant has abandoned the
16 dwelling unit, the landlord may:

17 ~~(1)(a)~~ Treat the rental agreement ~~lease~~ as terminated
18 and retake possession for his or her own account, thereby
19 terminating any further liability of the tenant. ~~or~~

20 ~~(2)(b)~~ Retake possession of the dwelling unit for the
21 account of the tenant, holding the tenant liable for the
22 difference between the rent ~~rental~~ stipulated to be paid under
23 the rental ~~lease~~ agreement and what, ~~in good faith,~~ the
24 landlord is able to recover from a reletting. If the landlord
25 retakes possession, the landlord has a duty to exercise good
26 faith in attempting to relet the premises, and any rent
27 received by the landlord as a result of the reletting shall be
28 deducted from the balance of rent due from the tenant. For
29 purposes of this subsection, the term "good faith in
30 attempting to relet the premises" means that the landlord uses
31 at least the same efforts to relet the premises as were used

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1 in the initial rental or at least the same efforts as the
2 landlord uses in attempting to rent other similar rental units
3 but does not require the landlord to give a preference in
4 renting the premises over other vacant dwelling units that the
5 landlord owns or has the responsibility to rent. ~~or~~

6 (3)(c) Stand by and do nothing, holding the lessee
7 liable for the rent as it comes due.

8 (4) If liquidated damages or an early termination fee
9 are provided for in the rental agreement, treat the rental
10 agreement as terminated and recover liquidated damages or
11 charge an early termination fee upon the tenant's giving
12 notice. This remedy is available only if the tenant, at the
13 time the rental agreement was made, indicated acceptance of
14 liquidated damages or an early termination fee by placing his
15 or her signature or initials next to the provision in the
16 agreement. If acceptance is not indicated, only the remedies
17 available in subsection (1), subsection (2), or subsection (3)
18 apply.

19 (a) The landlord is entitled to both liquidated
20 damages and an early termination fee if the combined total
21 charge does not exceed an amount equal to 2 months rent.

22 (b) In addition to liquidated damages or an early
23 termination fee, the landlord may charge the tenant for any
24 unpaid rent and other charges due under the rental agreement
25 through the end of the month in which the landlord retakes
26 possession of the dwelling unit, and any rent concessions that
27 the tenant has received up to the maximum of 1 month's rent.
28 For purposes of this paragraph, the term "rent concessions"
29 means any amount contained in the rental agreement by which
30 all or a portion of the base rent is reduced in consideration
31 for the tenant's entering into the rental agreement.

1 (c) This subsection does not apply if the breach is
 2 failure to give notice as provided in s. 83.575.

3 ~~(2) If the landlord retakes possession of the dwelling~~
 4 ~~unit for the account of the tenant, the landlord has a duty to~~
 5 ~~exercise good faith in attempting to relet the premises, and~~
 6 ~~any rentals received by the landlord as a result of the~~
 7 ~~reletting shall be deducted from the balance of rent due from~~
 8 ~~the tenant. For purposes of this section, "good faith in~~
 9 ~~attempting to relet the premises" means that the landlord~~
 10 ~~shall use at least the same efforts to relet the premises as~~
 11 ~~were used in the initial rental or at least the same efforts~~
 12 ~~as the landlord uses in attempting to lease other similar~~
 13 ~~rental units but does not require the landlord to give a~~
 14 ~~preference in leasing the premises over other vacant dwelling~~
 15 ~~units that the landlord owns or has the responsibility to~~
 16 ~~rent.~~

17 Section 3. This act shall take effect upon becoming a
 18 law.